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HOUSE OF REPRESENTATIVES
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Part 2

INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 1987

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DEPOSITORY

Ms. OAKAR, from the Committee on Post Office and Civil Service, submitted the following

REPORT

[To accompany H.R. 4759]

The Committee on Post Office and Civil Service, to whom was referred the bill (H.R. 4759) to authorize appropriations for fiscal year 1987 for intelligence and intelligence-related activities of the United States Government, the Intelligence Community Staff, and the Central Intelligence Agency Retirement and Disability System, and for other purposes, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments (stated in terms of the page and line numbers of the introduced bill) are as follows:

Page 22, lines 2 and 3, strike "compensation" and insert "pay".

Page 22, lines 3 and 4, strike "contained in" and insert "payable under".

Page 22, line 12, strike "compensation" and insert "pay".

Page 22, line 16, strike "compensation," and insert "allowances,".

Page 28, after line 12, insert the following:

REPORT ON INTELLIGENCE PERSONNEL SYSTEMS

SEC. 507. Not later than April 15, 1987, the Secretary of Defense and the Director of Central Intelligence shall submit jointly, an unclassified report to the Committee on Post Office and Civil Service and the Permanent Select Committee on Intelligence of the House of Representatives and to the Committee on Governmental Affairs and the Select Committee on Intelligence of the Senate describing the civilian personnel systems for officers and employees of the Central Intelligence Agency, the National Security Agency, and the Defense Intelligence Agency, and the per-

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sonnel systems for officers and employees established under section 1590 of title 10, United States Code, as added by section 504, for civilian intelligence personnel of the military departments. The report shall include descriptions of—

(1) how each such intelligence personnel system differs from the competitive service and from each other such system;

(2) the specific features of each such personnel system to ensure compliance with the merit system principles set forth in section 2301 of title 5, United States Code;

(3) any features of compensation (including bonuses and awards) unique to such personnel system;

(4) authorities to take actions (including the number of such actions) through employment termination provisions which do not permit appeals outside the agency; and

(5) any recruitment or retention problems existing within such system.

PURPOSE

The purposes of the committee amendments to H.R. 4759 are to make certain technical changes in section 504 of the bill and to require the Director of Central Intelligence and the Secretary of Defense to submit jointly an unclassified report on the various intelligence personnel systems under their jurisdictions to the Committee on Post Office and Civil Service and the Permanent Select Committee on Intelligence of the House of Representatives and to the Committee on Governmental Affairs and the Select Committee on Intelligence of the Senate. The report will describe the civilian personnel systems for officers and employees of the Central Intelligence Agency, the Defense Intelligence Agency, and the National Security Agency, and the personnel systems newly established within the military departments under the authority of section 1590 of title 10, United State Code, as added by section 504 of H.R. 4759.

COMMITTEE ACTION

On July 17, 1986, the Permanent Select Committee on Intelligence reported H.R. 4759 with an amendment. On the same date, the bill was sequentially referred to the Committee on Post Office and Civil Service for a period ending not later than July 30, 1986.

On March 19, June 5, and June 10, 1986, the Subcommittee on Compensation and Employee Benefits of the Committee on Post Office and Civil Service held oversight hearings on the current compensation program for General Schedule employees of the Federal Government. Testimony was received from Members of Congress, representatives of the administration, Federal employee organizations, and other public witnesses.

On July 23, 1986, the Committee on Post Office and Civil Service, by voice vote and with a quorum present, ordered H.R. 4759 favorably reported with amendments making technical corrections in section 504 and adding a new section 507.

SUMMARY OF SECTION 507 OF H.R. 4759

The committee amendment to H.R. 4759 (adding a new section 507) requires that the Secretary of Defense and the Director of Central Intelligence jointly submit an unclassified report to the Committee on Post Office and Civil Service and the Permanent Select Committee on Intelligence of the House of Representatives and to the Committee on Governmental Affairs and the Select Committee on Intelligence of the Senate describing the civilian personnel systems for officers and employees of the Central Intelligence Agency, the National Security Agency, and the Defense Intelligence Agency. In addition, the report would include similar information on the personnel systems for civilian intelligence personnel of the military departments established under the authority of section 1590 of title 10, United State Code, as added by section 504 of H.R. 4759. The report would provide the Congress the opportunity to review and evaluate the impact of the various personnel systems on the recruitment and retention of effective work forces at these agencies. The report must be submitted no later than April 15, 1987.

STATEMENT

Various personnel systems within a function

The intelligence agencies of the Department of Defense and the military departments have been bound by certain limitations contained in the provisions of title 5, United States Code, with regard to the compensation and classification of positions within their organizations. The Central Intelligence Agency and the National Security Agency, however, have had separate statutory authority to establish personnel systems notwithstanding certain title 5 provisions. This has resulted in the civilian intelligence agencies having much greater flexibility than the military agencies to attract and retain individuals with the required specialized skills. The intelligence agencies of the military departments are at a significant disadvantage by having to compete for employees, not only with the private sector, but also with the civilian intelligence agencies of the Federal Government.

Effect of section 504 of H.R. 4759

Section 504 of H.R. 4759 amends title 10, United States Code, to authorize the Secretary of Defense to establish personnel systems outside certain requirements of title 5, United States Code, for civilian intelligence personnel of the military departments. This authority extends to the classification and compensation of positions and to the appointment of individuals to such positions. It permits establishment of personnel systems more closely aligned with those of the Central Intelligence Agency and the National Security Agency.

The committee supports the two-fold effect of this section: First, it provides authority by which personnel systems may be designed to incorporated flexibilities sensitive to the unique requirements of the agency. Second, by removing some of the restrictions of title 5, United States Code, thereby enabling the development of systems

similar to those of the civilian intelligence agencies, it will result in more homogeneous personnel systems for Federal agencies which perform similar functions.

Reporting requirement

The committee amendments to H.R. 4759 add a new section 507 to the bill requiring the Director of Central Intelligence and the Secretary of Defense to submit jointly an unclassified report on the various intelligence personnel systems to the Committee on Post Office and Civil Service and the Permanent Select Committee on Intelligence of the House of Representatives and to the Committee on Governmental Affairs and the Select Committee on Intelligence of the Senate. The joint report shall include descriptions of: (1) the differences between each intelligence personnel system and the competitive service, and the difference between each intelligence personnel system; (2) the specific features of each system which ensure compliance with merit system principles; (3) any features of compensation unique to such personnel system (including bonuses and awards); (4) authorities to take actions to terminate employees under provisions which do not afford appeals outside the agency; and (5) any recruitment or retention problems. With respect to item (4), the report also call shall include information on the number of actions where such information is not classified.

The committee intends to review the features of each personnel system with a view toward assessing their impact on each agency's ability to recruit and retain a capable and effective work force and their impact on the ability of each agency to accomplish its mission. This information will assist the committee in making further decisions relative to statutory changes in the Federal compensation program.

COST

The committee estimates that the enactment of the committee amendments to H.R. 4759 will not result in any additional costs to the Government in fiscal year 1987.

OVERSIGHT

Under the rules of the House of Representatives, the Committee on Post Office and Civil Service is vested with legislative and oversight jurisdiction over the subject matter of the committee amendments. As a result of its consideration, the committee concluded that there is ample need and justification for the enactment of the committee amendments.

The committee received no report of oversight findings or recommendations from the Committee on Government Operations pursuant to clause 4(c)(2) of House Rule X.

INFLATIONARY IMPACT STATEMENT

Pursuant to clause 2(l)(4) of House Rule XI, the committee has concluded that the enactment of the committee amendments will have no inflationary impact on the national economy.

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CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of Rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law which no change is proposed is shown in roman):

CENTRAL INTELLIGENCE AGENCY RETIREMENT ACT OF 1964 FOR CERTAIN EMPLOYEES

* * * * * * *

TITLE II—THE CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

* * * * * * *

PART C—COMPUTATION OF ANNUITIES

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SURVIVOR BENEFITS FOR CERTAIN OTHER FORMER SPOUSES

SEC. 224. (a)(1) Any individual who was a former spouse of a participant or former participant on November 15, 1982, shall be entitled, to the extent of available appropriations, and except to the extent such former spouse is disqualified under subsection (b), to a survivor annuity equal to 55 percent of the greater of—

(A) the full amount of participant's or former participant's annuity, as computed under section 221(a); or

(B) the full amount of what such annuity as so computed would be if the participant or former participant had not withdrawn a lump-sum portion of contributions made with respect to such annuity.

(2) A survivor annuity payable under this section shall be reduced by an amount equal to the amount of retirement benefits, not including benefits under title II of the Social Security Act, received by the former spouse which are attributable to previous employment of such former spouse by the United States.

(b) A former spouse shall not be entitled to a survivor annuity under this section if—

(1) an election has been made with respect to such former spouse under section 223;

(2) the former spouse remarries before age 55; or

(3) the former spouse is less than fifty years of age.

(c)(1) The entitlement of a former spouse to a survivor annuity under this section—

(A) shall commence—

(i) in the case of a former spouse of a participant or former participant who is deceased as of the effective date of this section, beginning on the later of—

(I) the 60th day after such date; or

(II) the date such former spouse reaches age 50; and

(ii) in the case of any other former spouse, beginning on the latest of—

(I) the date that the participant or former participant to whom the former spouse was married dies;

(II) the 60th day after the effective date of this section; or

(III) the date such former spouse reaches age 50; and

(B) shall terminate on the last day of the month before the former spouse's death or remarriage before attaining age 55.

(2)(A) A survivor annuity under this section shall not be payable unless appropriate written application is provided to the Director, complete with any supporting documentation which the Director may by regulation require, within 30 months after the effective date of this section.

(B) Upon approval of an application provided under subparagraph (A), the appropriate survivor annuity shall be payable to the former spouse with respect to all periods before such approval during which the former spouse was entitled to such annuity under this section, but in no event shall a survivor annuity be payable under this section with respect to any period before the effective date of this section.

(d) The Director shall—

(1) as soon as possible, but not later than 60 days after the effective date of this section, issue such regulations as may be necessary to carry out this section; and

(2) to the maximum extent practicable, and as soon as possible, inform each individual who was a former spouse of a participant or former participant on November 15, 1982, of any rights which such individual may have under this section.

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CENTRAL INTELLIGENCE AGENCY ACT OF 1949

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RETIREMENT EQUITY FOR SPOUSES OF CERTAIN EMPLOYEES

SEC. 14. (a) The provisions of sections 204, 221(b) (1)–(3), 221(f), 221(g)(2), 221(l), 221(m), 221(n), 221(o), 222, 223, *224*, 234(c), 234(d), 234(e), and 263(b) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (50 U.S.C. 403 note) establishing certain requirements, limitations, rights, entitlements, and benefits relating to retirement annuities, survivor benefits, and lump-sum payments for a spouse or former spouse of an Agency employee who is a participant in the Central Intelligence Agency Retirement and Disability System shall apply in the same manner and to the same extent in the case of an Agency employee who is a participant in the Civil Service Retirement and Disability System.

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HEALTH BENEFITS FOR CERTAIN POWER SPOUSES OF CIA EMPLOYEES

SEC. 16. (a) Except as provided in subsection (c)(1), any individual—

(1) formerly married to an employee or former employee of the Agency, whose marriage was dissolved by divorce or annulment before May 7, 1985;

(2) who, at any time during the 18-month period before the divorce or annulment became final, was covered under a health benefits plan as a member of the family of such employee or former employee; and

(3) who was married to such employee for not less than 10 years during periods of service by such employee with the Agency, at least five years of which were spent outside the United States by both the employee and the former spouse,

is eligible for coverage under a health benefits plan in accordance with the provisions of this section.

(b)(1) Any individual eligible for coverage under subsection (a) may enroll in a health benefits plan for self alone or for self and family if, before the expiration of the 6-month period beginning on the effective date of this section, and in accordance with such procedures as the Director of the Office of Personnel Management shall by regulation prescribe, such individual—

(A) files an election for such enrollment; and

(B) arranges to pay currently into the Employees Health Benefits Fund under section 8909 of title 5, United States Code an amount equal to the sum of the employee and agency contributions payable in the case of an employee enrolled under chapter 89 of such title in the same health benefits plan and with the same level of benefits.

(2) The Director of Central Intelligence shall, as soon as possible, take all steps practicable—

(A) to determine the identity and current address of each former spouse eligible for coverage under subsection (a); and

(B) to notify each such former spouse of that individual's rights under this section.

(3) The Director of the Office of Personnel Management, upon notification by the Director of Central Intelligence, shall waive the 6-month limitation set forth in paragraph (1) in any case in which the Director of Central Intelligence determines that the circumstances so warrant.

(c)(1) Any former spouse who remarries before age 55 is not eligible to make an election under subsection (b)(1).

(2) Any former spouse enrolled in a health benefit plan pursuant to an election under subsection (b)(1) may continue the enrollment under the conditions of eligibility which the Director of the Office of Personnel Management shall by regulation prescribe, except that any former spouse who remarries before age 55 shall not be eligible for continued enrollment under this section after the end of the 31-day period beginning on the date of remarriage.

(d) No individual may be covered by a health benefits plan under this section during any period in which such individual is enrolled in a health benefits plan under any other authority, nor may any individual be covered under more than one enrollment under this section.

(e) For purposes of this section the term "health benefits plan" means an approved health benefits plan under chapter 89 of title 5, United States Code.

TITLE 28, UNITED STATES CODE

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PART II—DEPARTMENT OF JUSTICE

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CHAPTER 33—FEDERAL BUREAU OF INVESTIGATION

Sec.
531. Federal Bureau of Investigation.

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539. Counterintelligence Official Reception and Representation Expenses.

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§ 539. Counterintelligence Official Reception and Representation Expenses

"The Director of the Federal Bureau of Investigation may use funds available to the Federal Bureau of Investigation for counterintelligence programs to pay the expenses of hosting foreign officials in the United States under the auspices of the Federal Bureau of Investigation for consultation on counterintelligence matters.

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TITLE 10, UNITED STATES CODE

Subtitle A—General Military Law

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PART I—ORGANIZATION AND GENERAL MILITARY POWERS

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CHAPTER 4—DEPARTMENT OF DEFENSE

Sec.
131. Executive department.

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140d. Counterintelligence Official Reception and Representation Expenses.
140e. Authority to Use Proceeds from Counterintelligence Operations of the Military Departments.

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§ 140d. Counterintelligence Official Reception and Representation Expenses

The Secretary of Defense may use funds available to the Department of Defense for counterintelligence programs to pay the expenses of hosting foreign officials in the United States under the auspices of the Department of Defense for consultation on counterintelligence matters.

§ 140e. Authority to Use Proceeds from Counterintelligence Operations of the Military Departments

(a) The Secretary of Defense may authorize, without regard to the provisions of section 3302 of title 31, United States Code, use of proceeds from counterintelligence operations conducted by components of the military departments to offset necessary and reasonable expenses, not otherwise prohibited by law, incurred in such operations, and to make awards to personnel involved in such operations, if use of appropriated funds to meet such expenses or to make such awards would not be practicable.

(b) As soon as the net proceeds from such counterintelligence opertions are no longer necessary for the conduct of those operations, such proceeds shall be deposited into the Treasury as miscellaneous receipts.

(c) The Secretary of Defense shall establish policies and procedures to govern acquisition, use, management and disposition of proceeds from counterintelligence operations conducted by components of the military departments, including effective internal systems of accounting and administrative controls.

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PART II—PERSONNEL

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CHAPTER 81—CIVILIAN EMPLOYEES

Sec.
1583. Employment of certain persons without pay.

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1590. Management of Civilian Intelligence Personnel of the Military Departments.

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§ 1590. Management of Civilian Intelligence Personnel of the Military Departments

(a) The Secretary of Defense may, without regard to the provisions of any other law relating to the number, classification, or compensation of employees—

(1) establish such positions for civilian intelligence officers and employees of the military departments as may be necessary to carry out the intelligence functions of such departments;

(2) appoint individuals to such positions; and

(3) fix the compensation of such individuals for service in such positions.

(b) The Secretary of Defense shall, subject to subsection (c), fix the rates of basic pay for positions established under subsection (a) in relation to the rates of basic pay provided in the General Schedule under section 5332 of title 5 for positions subject to such Schedule which have corresponding levels of duties and responsibilities. Except in the case of a civilian intelligence officer or employee of a military department serving as a member of the Senior Executive Service of a military department, no civilian intelligence officer or employee of a military department may be paid basic pay at a rate in excess of the highest rate of basic pay payable under such General Schedule.

(c) The Secretary of Defense is authorized, consistent with section 5341 of title 5, to adopt such provisions of such title as provided for prevailing rate systems of basic pay and to apply such provisions to positions for civilian intelligence officers or employees in or under which the military departments may employ individuals described by section 5342(a)(2)(A) of such title.

(d) In addition to the basic pay payable under subsection (b), civilian intelligence officers and employees of the military departments who are citizens or nationals of the United States and who are stationed outside the continental United States or in Alaska may be paid allowances, in accordance with regulations prescribed by the Secretary of Defense, not in excess of an allowance authorized to be paid by section 5941(a) of title 5 for employees whose rates of basic pay are fixed by statute. Such allowances shall be based on—

(1) living costs substantially higher than in the District of Columbia;

(2) conditions of environment which differ substantially from conditions of environment in the continental United States and warrant an allowance as a recruitment incentive; or

(3) both of the factors described in paragraphs (1) and (2).

(e)(1) Notwithstanding any other provision of law, the Secretary of Defense may, during fiscal year 1987, terminate the employment of any civilian intelligence officer or employee of a military department whenever he considers that action to be in the interests of the United States and he determines that the procedures prescribed in other provisions of law that authorize the termination of the employment of such officer or employee cannot be invoked in a manner consistent with the national security. The decisions of the Secretary under this paragraph are final and may not be appealed or reviewed outside the Department of Defense. The Secretary of Defense shall promptly notify the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate whenever this termination authority is exercised.

(2) Any termination of employment under this subsection shall not affect the right of the officer or employee involved to seek or accept employment with any other department or agency of the United States if he is declared eligible for such employment by the Director of the Office of Personnel Management.

(3) The Secretary of Defense may delegate authority under this subsection only to the Deputy Secretary of Defense or the Secretary concerned or both. An action to terminate any civilian intelligence

officer or employee of a military department by either such officer shall be appealable to the Secretary of Defense.

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CHAPTER 83—DEFENSE INTELLIGENCE AGENCY CIVILIAN PERSONNEL

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§ 1604. Civilian personnel management

(a) * * *

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(e)(1) Notwithstanding any other provision of law, the Secretary of Defense may, during fiscal years [1985 and 1986,] *1986 and 1987,* terminate the employment of any civilian officer or employee of the Defense Intelligence Agency whenever he considers that action to be in the interests of the United States and he determines that he procedures prescribed in other provisions of law that authorize the termination of the employment of such officer or employee cannot be invoked in a manner consistent with the national security. The decisions of the Secretary under this paragraph are final and may not be appealed or reviewed outside the Department of Defense. The Secretary of Defense shall promptly notify the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate whenever this termination authority is exercised.

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§ 1605. Benefits for certain employees of the Defense Intelligence Agency

(a) The Secretary of Defense may provide to civilian personnel of the Department of Defense who are United States nationals, who are assigned to Defense Attaché Offices and Defense Intelligence Agency Liaison Offices outside the United States, and who are designated by the Secretary of Defense for the purposes of this subsection, allowances and benefits comparable to those provided by the Secretary of State to officers and employees of the Foreign Service under paragraphs (2), (3), (4), *(5),* (6), (7), (8) and (13) of section 901 and sections 705 and 903 of the Foreign Service Act of 1980 22 U.S.C. 4081 (2), (3), (4), *(5),* (6), (7), (8), and (13), 4025, 4083) and under section 5924(4) of title 15.

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PART IV—SERVICE, SUPPLY, AND PROCUREMENT

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CHAPTER 167—DEFENSE MAPPING AGENCY

Sec.
2791. Establishment and duties.

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2795. Exchange of Mapping, Charting and Geodetic Data with Foreign Countries and International Organizations.

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§ 2795. Exchange of Mapping, Charting and Geodetic Data with Foreign Countries and International Organizations

The Secretary of Defense may authorize the Defense Mapping Agency to exchange or furnish mapping, charting, and geodetic data, supplies and services to a foreign country or international organization pursuant to an agreement for the production or exchange of such data.

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TITLE 5, UNITED STATES CODE

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PART III—EMPLOYEES

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Subpart G—Insurance and Annuities

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CHAPTER 83—RETIREMENT

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Subchapter II—Forfeiture of Annuities and Retired Pay

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§ 8312. Conviction of certain offenses

(a) * * *

* * * * * * *

(c) The following are the offenses to which subsection (a) of this section applies if the individual was convicted before, on, or after September 26, 1961:

(1) An offense within the purview of—

(A) section 2272 (violation of specific sections) or 2273 (violation of sections generally of chapter 23 of title 42) of title 42 insofar as the offense is committed with intent to injure the United States or with intent to secure an advantage to a foreign nation;

(B) section 2274 (communication of restricted data), 2275 (receipt of restricted data), or 2276 (tampering with restricted data) of title 42; or

(C) section 783 (conspiracy and communication or receipt of classified information) of title 50[.] *section 601 of the National Security Act of 1947 (50 U.S.C. 421) (or relating to intelligence identities).*

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Subpart H—Access to Criminal History Record Information

CHAPTER 91—ACCESS TO CRIMINAL HISTORY RECORDS FOR NATIONAL SECURITY PURPOSES

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§ 9101. Criminal history record information for national security purposes

(a) * * *

(b)(1) Upon request by the Department of Defense, the Office of Personnel Management, [or] the Central Intelligence Agency, *or the Federal Bureau of Investigation,* criminal justice agencies shall make available criminal history record information regarding individuals under investigation by such department, office [or agency], *agency or bureau* for the purpose of determining eligibility for (A) access to classified information or (B) assignment to or retention in sensitive national security duties. Such a request to a State central criminal history record repository shall be accompanied by the fingerprints of the individual who is the subject of the request if required by State law and if the repository uses the fingerprints in an automated fingerprint identification system. Fees, if any, charged for providing criminal history record information pursuant to this subsection shall not exceed the reasonable cost of providing such information, nor shall they in any event exceed those charged to State or local agencies other than criminal justice agencies for such information.

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(3)(A) Upon request by a State or locality, the Department of Defense, the Office of Personnel Management, [or] the Central Intelligence Agency, *or the Federal Bureau of Investigation* shall enter into an agreement with such State or locality to indemnify and hold harmless such State or locality, and its officers, employees and agents, from any claim against such State or locality, or its officer, employee or agent, for damages, costs and other monetary loss, whether or not suit is instituted, arising from the disclosure or use by such department, office [or agency], *agency, or bureau* of criminal history record information obtained from the State or locality pursuant to this subsection, if the laws of such State or locality, as of the date of enactment of this section, otherwise have the effect of prohibiting the disclosure of such criminal history record information to such department, office, [or] agency[.], *or bureau.*

(B) When the Department of Defense, the Office of Personnel Management, [or] the Central Intelligence Agency, *or the Federal Bureau of Investigation* and a State or locality have entered into

an agreement described in subparagraph (A), and a claim described in such subparagraph is made against such State or locality, or its officer, employee, or agent, the State or locality shall expeditiously transmit notice of such claim to the Attorney General and to the United States Attorney of the district embracing the place wherein the claim is made, and the United States shall have the opportunity to make all determinations regarding the settlement or defense of such claim.

(c) The Department of Defense, the Office of Personnel Management, [or] the Central Intelligence Agency, *or the Federal Bureau of Investigation* shall not obtain criminal history record information pursuant to this section unless it has received written consent from the individual under investigation for the release of such information for the purposes set forth in paragraph (b)(1).

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SECTION 803 OF THE INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 1986

SEC. 803. (a) Within two years after the date of enactment of this Act, the Department of Justice, after consultation with the Department of Defense, the Office of Personnel Management, [and] the Central Intelligence Agency, *and the Federal Bureau of Investigation,* shall report to the appropriate committees of the Congress concerning the effect of section 9101(b)(3) of title 5, United States Code, as added by this Act, including the effect of the absence of indemnification agreements upon States and localities not eligible under section 9101(b)(3) of title 5, United States Code, for such agreements.

SECTION 1114 OF THE RIGHT TO FINANCIAL PRIVACY ACT OF 1978

SPECIAL PROCEDURES

SEC. 1114. (a)(1) * * *

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(5)(A) Financial institutions, and officers, employees and agents thereof, shall comply with a request for a customer's or entity's financial records made pursuant to this subsection by the Federal Bureau of Investigation when the Director of the Federal Bureau of Investigation (or the Director's designee) certifies in writing to the financial institution that such records are sought for foreign counterintelligence purposes and that there are specific and articulable facts giving reason to believe that the customer or entity whose records are sought is a foreign power or an agent of a foreign power as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801).

(B) The Federal Bureau of Investigation may disseminate information obtained pursuant to this paragraph only as provided in guidelines approved by the Attorney General for foreign intelligence collection and foreign counterintelligence investigations conducted by the Federal Bureau of Investigation, and, with respect to dissemi-

nation to an agency of the United States, only if such infomation is clearly relevant to the authorized reponsibilities of such agency.

(C) On a semiannual basis the Attorney General shall fully inform the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate concerning all requests made pursuant to this paragraph.

(D) No financial institution, or officer, employee, or agent of such institution, shall disclose to any person that the Federal Bureau of Investigation has sought or obtained access to a customer's or entity's financial records under this paragraph.

SECTION 402 OF THE INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 1984

ELIGIBILITY FOR INCENTIVE AWARDS

SEC. 402. (a) * * *

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(c) The Director of Central Intelligence may exercise the authority granted in section 4503(2) of title 5, United States Code, with respect to members of the Armed Forces who are assigned to foreign intelligence duties at the time of the conduct which gives rise to the exercise of such authority.

(d) An award made by the Director of Central Intelligence to an employee or member of the Armed Forces under the authority of section 4503 of title 5, United States Code, or this section may be paid and accepted notwithstanding—

(1) section 5536 of title 5, United States Code; and

(2) the death, separation, or retirement of the employee or the member of the Armed Forces whose conduct gave rise to the award, or the assignment of such member to duties other than foreign intelligence duties.

NATIONAL SECURITY AGENCY ACT OF 1959

* * * * * * *

SEC. 16. (a) The purpose of this section is to establish an undergraduate training program, which may lead to the baccalaureate degree, to facilitate the recruitment of individuals, particularly minority high school students, with a demonstrated capability to develop skills critical to the mission of the National Security Agency, including mathematics, computer science, engineering, and foreign languages.

(b) The Secretary of Defense is authorized, in his discretion, to assign civilian employees of the National Security Agency as students at accredited professional, technical and other institutions of higher learning for training at the undergraduate level in skills critical to effective performance of the mission of the Agency.

(c) The National Security Agency may pay, directly or by reimbursement to employees, expenses incident to assignments under subsection (b), in any fiscal year only to the extent that appropriated funds are available for such purpose.

(d)(1) To be eligible for assigment under subsection (b), an employee of the Agency must agree in writing—

(A) to continue in the service of the Agency for the period of the assignment and to complete the educational course of training for which the employee is assigned;

(B) to continue in the service of the Agency following completion of the assignment for a period of one-and-a-half years for each year of the assignment or part thereof;

(C) to reimburse the United States for the total cost of education (excluding the employee's pay and allowances) provided under this section to the employee if, prior to the employee's completing the educational course of training for which the employee is assigned, the assignment or the employee's employment with the Agency is terminate either by the Agency due to misconduct by the employee or by the employee voluntarily; and

(D) to reimburse the United States if, after completing the educational course of training for which the employee is assigned, the employee's employment with the Agency is terminated either by the Agency due to misconduct by the employee or by the employee voluntarily, prior to the employee's completion of the service obligation period described in subparagraph (B), in an amount that bears the same ratio to the total cost of the education (excluding the employee's pay and allowances) provided to the employee as the unserved portion of the service obligation period described in subparagaph (B) bears to the total period of the service obligation described in subparagraph (B).

(2) Subject to paragraph (3), the obligation to reimburse the United States under an agreement described in paragraph (1), including interest due on such obligation, is for all purposes a debt owing the United States.

(3)(A) A discharge in bankruptcy under title 11, United States Code, shall not release a person from an obligation to reimburse the United States required under an agreement described in paragraph (1) if the final decree of the discharge in bankruptcy is issued within five years after the last day of the combined period of service obligation described in subparagraphs (A) and (B) of paragraph (1).

(B) The Secretary of Defense may release a person, in whole or in part, from the obligation to reimburse the United States under an agreement described in paragraph (1) when, in his discretion, the Secretary determines that equity or the interests of the United States so require.

(C) The Secretary of Defense shall permit an employee assigned under this section who, prior to commencing a second academic year of such assignment, voluntarily terminates the assignment or the employee's employment with the Agency, to satisfy his obligation under an agreement described in paragraph (1) to reimburse the United States by reimbursement according to a schedule of monthly payments which results in completion of reimbursement of the assignment or employment or earlier at the option of the employee.

(e) When an employee is assigned under this section to an institution, the Agency shall disclose to the institution to which the employee is assigned that the Agency employs the employee and that the Agency funds the employee's education.

(f) Chapter 41 of title 5 and subsections (a) and (b) of Section 3324 of title 31, United States Code, shall not apply with respect to this section.

(g) The Secretary of Defense may issue such regulations as may be necessary to implement this section.

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TITLE V—ACCOUNTABILITY FOR INTELLIGENCE ACTIVITIES

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NOTICE TO CONGRESS OF CERTAIN TRANSFERS OF DEFENSE ARTICLES AND DEFENSE SERVICES

SEC. 503. (a)(1) The transfer of a defense article or defense service exceeding $1,000,000 in value by an intelligence agency to a recipient outside that agency shall be considered a significant anticipated intelligence activity for the purpose of Section 501 of this Act.

(2) Paragraph (1) does not apply if—

(A) the transfer is being made to a department, agency, or other entity of the United States (so long as there will not be a subsequent retransfer of the defense articles or defense services outside the United States, Govenment in conjunction with an intelligence or intelligence-related activity); or

(B) the transfer—

(i) is being made pursuant to authorities contained in part II of the Foreign Assistance Act of 1961, the Arms Export Control Act, title 10 of the United States Code (including a law enacted pursuant to section 7307(b)(1) of that title), or the Federal Property and Administrative Services Act of 1949, and

(ii) is not being made in conjunction with an intelligence or intelligence-related activity.

(3) An intelligence agency may not transfer any defense articles or defense services outside the agency in conjunction with any intelligence or intelligence-related activity for which funds were denied by the Congress.

(c) As used in this section—

(1) the term "intelligence agency" means any department, agency, or other entity of the United States involved in intelligence or intelligence-related activities;

(2) the terms "defense articles" and "defense services" mean the items on the United States Munitions List pursuant to section 38 of the Arms Export Control Act (22 CFR part 121);

(3) the term "transfer" means—

(A) in the case of defense articles, the transfer of possession of those articles, and

(B) in the case of defense services, the provision of those services; and

(4) the term "value" means—

(A) in the case of defense articles, the greater of—

(i) the original acquisition cost to the United States Government, plus the cost of improvements or other modifications made by or on behalf of the Government; or

(ii) the replacement cost; and

(B) in the case of defense services, the full cost to the Government of providing the services.

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